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10/641,142	08/15/2003	Steven Shraga	P23568	8544
7055	7590	09/05/2006	EXAMINER	
GREENBLUM & BERNSTEIN, P.L.C. 1950 ROLAND CLARKE PLACE RESTON, VA 20191			THALER, MICHAEL H	
			ART UNIT	PAPER NUMBER
			3731	
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/641,142
Filing Date: August 15, 2003
Appellant(s): SHRAGA, STEVEN

MAILED
SEP 05 2006
Group 3700

Neil F. Greenblum
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 24, 2006
appealing from the Office action mailed Nov. 28, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

WITHDRAWN REJECTIONS

The following grounds of rejection are not presented for review on appeal because they have been withdrawn by the

Art Unit: 3731

examiner. The rejection of claims 1-3 and 8-42 under 35 U.S.C. 112, second paragraph.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,156,051	SCHRAGA	12-2000
4,469,110	SLAMA	9-1984

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-3, 8-23, 27-31, 36-42 stand rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Schraga (6,156,051). Schraga, in figure 16, discloses body 20C, trigger 45, front cover (the assembly of members 20A and 50 which are secured together to form a single cover as indicated in col. 10, lines 18-26 and which is a "front" cover since this cover extends to the front of the device), holding member 30, main spring 40, first stop surface (the upper surface of flange 176 as seen in figure 16), second stop surface (the lower surface of member 174 as seen in figure 16) extending inwardly from the outer portion of the body

Art Unit: 3731

20C and arranged between the first stop surface and the skin engaging end, wherein at least partial rotation of the front cover 20A, 50 causes the skin engaging end (at the distal end of 50) to move axially relative to the second stop surface (due to the threaded connection at 170, 172 as indicated in col. 14, lines 21-24). Alternatively, it would have been obvious that members 20A and 50 form a "front" cover since this cover extends to the front of the device. As to claim 2, Schraga discloses back cap 20B. As to claim 8, Schraga discloses another spring 178. As to claim 12, note col. 9, lines 36-40 of Schraga. As to claim 13, Schraga discloses locking member 182. As to claim 18, Schraga discloses deflecting member 36.

Claims 24-26 and 32-35 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Schraga (6,156,051). As to claims 24-26, Schraga, in the embodiment of figure 16, fails to disclose indicia on at least one of the front cover and the body. However, Schraga, in the embodiment of figure 1, teaches that indicia should be placed on the threaded members in order to obtain the advantage easily determining the penetration depth of the lancet (col. 16, lines 46-59). It would have been obvious to include indicia on the threaded members 20A and 20C in the figure 16 embodiment so that this embodiment too would have this advantage. As to claim 32, Schraga fails to disclose

Art Unit: 3731

the body 20C as being a two-piece body. However, Schraga teaches that body 20 should be formed initially as a two piece body in order to obtain the advantage of facilitating its manufacture (col. 8, lines 29-31). It would have been obvious to form body 20C as a two-piece body so that it too would have this advantage.

Claims 43 and 44 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Slama (4,469,110) in view of Schraga (6,156,051). Slama discloses body 2, trigger 5a, front cover 10, holding member 3, main spring 4, first stop surface (the outer surface of shaft 5), second stop surface 7 (col. 3, lines 34-38), wherein at least partial rotation of the front cover 10 causes the skin engaging end to move axially relative to the second stop surface (col. 3, lines 49-58). Slama fails to disclose the main spring 4 being disposed between the front and rear ends of the holding member 3. However, Schraga teaches that the holding member 30 should extend to the back end of the lancet device in order to enable it to engage a back cap 20B (figure 16) apparently in order to obtain the advantage of easily cocking the needle by pulling on back cap 20B (col. 14, lines 52-59). It would have been obvious to elongate the holding member 3 of Slama in the rearward direction to engage a similar back cap so that it too would have this advantage. With

Art Unit: 3731

this modification, the Slama main spring 4 would be disposed between the front and rear ends of the holding member 3, noting that the Schraga main spring 40 is so disposed relative to holding member 30.

(10) Response to Argument

Appellant's arguments regarding Schraga are based upon the incorrect belief that the Examiner relies on member 20A of Schraga to meet the claimed term "body" (e.g. claim 1, line 2). However, it is member 20C of Schraga that is relied upon by the Examiner to meet the claimed term "body" as clearly indicated in the rejection. Member 20C of Schraga is clearly a "body" as broadly claimed. Appellant's arguments are also based upon the incorrect belief that the Examiner relies on member 50 of Schraga to meet the claimed term "front cover" (e.g. claim 1, line 4). However, it is the assembly of members 20A and 50 which are secured together to form a single cover that is used by the Examiner to meet the claimed term "front cover" as clearly indicated in the rejection. Although this front cover is composed of two members secured together, the claims do not preclude this (by claiming the front cover as being a unitary member, for example). Further, appellant's specification considers holder 4/5 to be a "holder" even though it is composed of two members secured together (page 13, lines 17-20).

Thus, appellant argues on pages 7 and 8 of the brief that member 174 of Schraga is not non-movably connected to body 20A. However, member 174 of Schraga is clearly not non-movably connected to body 20C as seen in figure 16.

Also, appellant argues on page 8 of the brief that cover 50 of Schraga cannot possibly rotate relative to body 20. While this is true, cover 2A, 50 clearly rotates relative to body 20C (due to the threaded connection at 170, 172 as indicated in col. 14, lines 21-24).

Also, appellant argues on page 8 of the brief that front cover 20A or 20C of Schraga does not have a skin engaging end. While this is true, cover 2A, 50 has a skin engaging end (at the distal end of 50).

As to the argument on page 9 of the brief regarding claim 17, Schraga discloses a penetration depth adjustment between front cover 2A, 50 and body 20C (due to the threaded connection at 170, 172).

As to the argument on page 11 of the brief regarding claim 39, Schraga discloses gripping protrusions at the corners of the triangular shaped front cover 2A, 50.

The other arguments in the brief regarding Schraga are similarly based upon the incorrect assumption that the Examiner

Art Unit: 3731

relies on member 20A of Schraga to meet the claimed term "body" and member 50 of Schraga to meet the claimed term "front cover".

Appellant's arguments regarding Slama are based upon the incorrect belief that the Examiner relies on the surface arranged on the rear end of the front cover 10 of Slama to meet the claimed term "second stop surface" (pages 15 and 18 of the brief). However, the second stop surface of Slama is considered by the examiner to be surface 7 (as clearly set forth in the rejection) and not "the one arranged on the rear end of the front cover 10" as alleged at pages 15 and 18 of the brief. Second stop surface 7 of Slama is clearly axially retained to a front portion of body 2 as claimed.

(11) Related Proceeding(s) Appendix


No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Art Unit: 3731

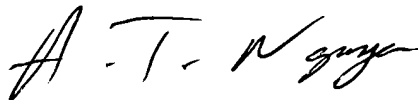
Respectfully submitted,

Michael Thaler
Primary Examiner
Art Unit 3731

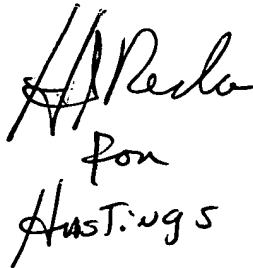


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